

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

HEATH NEARON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-11-0486-HE
)	
CITY OF OKLAHOMA CITY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER


Plaintiff Heath Nearon, a state prisoner appearing *pro se*, filed this § 1983 action alleging he was subject to excessive force in violation of his constitutional rights. Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred to Magistrate Judge Gary M. Purcell, who has recommended that the action be dismissed without prejudice pursuant to 28 U.S.C. §§1915A and 1915(e)(2)(B), unless certain deficiencies in the complaint are corrected.

Plaintiff failed to object to the magistrate judge's Report and Recommendation and thereby waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Purcell's Report and Recommendation and **DISMISSES** the complaint without prejudice. Plaintiff is **GRANTED twenty (20) days** within which to correct the deficiencies identified by the magistrate judge in his Report and Recommendation. If an amended complaint is not filed that includes the allegations necessary to state claims against the defendants, this action will be dismissed without prejudice. The Court Clerk is directed to send plaintiff a copy of the

August 22, 2011, Report and Recommendation along with this order.

IT IS SO ORDERED.

Dated this 17th day of October, 2011.



JOE HEATON
UNITED STATES DISTRICT JUDGE